

REMARKS/ARGUMENTS

Claim Status and Amendment to the Claims

Claims 1-4, 9-24, 26, 30-32, 52, and 63-91 are now pending. No claims stand allowed.

Claims 1, 9, 13-14, 17, 20, 30, 63, 66, 68-69, 71, 74, 76, 78, 81 and 83 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. The text of claims 2-4, 10-12, 15-16, 18-19, 21-24, 26, 31-32, 52, 64-65, 67, 70, 72-73, 75, 77, 79-80, 82, and 84 is unchanged, but their meaning is changed because they depend from amended claims.

New claims 85-91 have been added by this amendment and also particularly point out and distinctly claim subject matter regarded as the invention.

No “new matter” has been added by the amendment.

The 35 U.S.C. §103 Rejection

Claims 1-4, 9-24, 26, 30-32, 52, and 63-84 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Farber et al. (U.S. Pat. No. 6,185,598) in view of Arnon et al. (U.S. Pat. No. 6,242,999). This rejection is respectfully traversed.

According to M.P.E.P. §2143,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Claim 1 defines a backup server for enabling a data communications network to recover from a local server failure, the data communications network including a network access server (NAS) for coupling a call placed from a call-in user to the data communications network, the NAS having a memory associated therewith. The claimed backup server comprises (a) an information packet receiver responsive to the local server failure, the information packet receiver receiving from the memory associated with the NAS an information packet associated with an ongoing call placed by the call-in user via the NAS, the information packet containing call information of the ongoing call for maintaining connection of the ongoing call if the local server fails, and (b) a parser for reconstructing the call information from the information packet such that the backup server maintains the ongoing call to the data communications network, as recited in claim 1, as amended.

In the Office Action, the Examiner maintains his rejection, alleging that the Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. The only "new ground" is that Faber allegedly teaches "selecting the best Repeater Server to handle client's requests" in the newly cited portion of Farber (column 11, line 1 to column 12, line 58) which describes the Best Repeater Selector (BRS)

mechanism. Based on this and other already-cited portions of Farber, the Examiner specifically alleges that Farber's BRS mechanism is "in response to clients' request from the origin server and selecting the best Repeater Server to handle client's requests" and thus teaches the claimed information packet receiver and information packet. However, this allegation is not correct for the following reasons.

First, Applicant respectfully clarify that there are three different entities are involved in the claimed invention: a local server; a backup server; and a network access server (NAS). Claim 1 defines a "backup" server comprising (a) an information packet receiver and (b) a parser, as recited above. Thus, the claimed "information packet receiver" is an element of the backup server, not the local server to be failed and taken over by the backup server. However, as described in column 11, lines 5-9 and FIG. 1 of Farber, the BRS mechanism is part of the reflector **108**, which is local to the origin server **102** (alleged local server), not the repeaters **104** (alleged backup server) (column 4, lines 57-48, column 5, lines 26-33 of Farber). This is also clear from the Farber's description: "the reflector **108** either serves the request locally (at the origin server **102**), or selects one of the repeaters (preferably the best repeater for the job) and reflects the request to the selected repeater" (column 5, lines 8-12 thereof). It is improper to equates an element (BRS mechanism) of the alleged local server to an element (the information packet requester) of the claimed backup server.

Furthermore, even if the origin server 102 should correspond to the claimed backup server, as the Examiner alleges, Farber does not teach or suggest the claimed information packet receiver for the following reasons:

As recited in claim 1, the claimed information packet receiver receives, from the memory associated with the NAS, an information packet associated with an ongoing call placed by the call-in user via the NAS, and the information packet contains call information of the ongoing call for maintaining connection of the ongoing call if the local server fails. However, Farber (column 4, line 64 to column 6, line 65) cited by the Examiner only teaches Uniform Resource Locators (URLs). The URLs only indicate or specify location of resources (information, data, file etc) on the network, typically an Internet Protocol (IP) address (column 5, line 45-49, and column 6, line 53-54 of Farber, emphasis added). Thus, the alleged information in Farber only contains the location of the requested resources which is an IP address of the origin server or repeater, or a specific Web page address thereon, i.e., where the resource is to be found. Since any request, connection, or alleged call can be placed by anyone from anywhere to reach particular resources, such resource location information itself does not have specific connection or call information of the ongoing call placed by the call-in user via the NAS, as recited in claim 1. Similarly, the resource location information itself cannot maintain connection of the ongoing call if the local server fails, as recited in claim 1.

Furthermore, in Farber, the origin server 102 (allegedly a backup server here) receives a request containing URL or the alleged information from the client 106 (see FIG. 2 of thereof), not from a memory associated with a network access server (NAS) or

any server “for coupling a call placed from a call-in user to the data communications network,” as recited in claim 1. The client **106** is a user agent (column 4, lines 50-51 of Farber), and thus cannot be a network access server, as is well understood by one of the ordinary skill in the art. It should be noted that Farber does not teach “client’s request from the origin server,” as the Office Action mentions, since Farber only describes client **106** requesting resources from the origin server **102** (column 4, lines 49-50), and then the BRS mechanism (the alleged information packet receiver) intercepts that request. Thus, the request is still from the client **106**, not from the origin server **102**.

In addition, even if the request may be redirected from the origin server **102** to a repeater **104**, as the Examiner may alleges, then the receiving repeater **104** which is now allegedly a backup server, no longer includes the BRS mechanism (the alleged information packet receiver), as discussed above. Furthermore, such a request “redirected” from the origin server **102** to the repeater **104** only contains the URL information, not “ongoing call information placed to the origin server **102** (alleged NAS, if any) by the client **106** (alleged call-in user),” as discussed above. More importantly, however, in Farber, when a request is to be redirected from the origin server **102** to the repeater **104**, the a new URL for the repeater **104** is actually sent back to the client **106** (column 7, lines 19-21 and 29-32 thereof), which then initiates and establishes a new direct connection to the directed repeater **104** using the new URL. This is also clearly illustrated in FIG. 2 of Farber, where the client **106** independently establishes a connection with each server (Box A3) whether the server is the origin server **102**, the reflector **108**, or the repeater **104**. Thus, in Farber, no request or alleged information is

sent from the origin server 102 to the repeater 104. Also, since the client's connection is changed from the origin server 102 to the repeater 104 when the client's request is "redirected" to the repeater 104, there is no need for the repeater 104 to receive any information of an "old" or previous connection between the client 106 and the origin server 102 in Farber.

Accordingly, Farber fails to teach or suggest the claimed information packet receiver receiving from the memory associated with the NAS an information packet associated with an ongoing call placed to the NAS by the call-in user, the information packet containing call information of the ongoing call for maintaining connection of the ongoing call if the local server fails, as recited in claim 1.

In addition, as the Examiner correctly acknowledges in the Office Action, Farber also fails to teach or suggest the information packet receiver "responsive to the local server failure" as recited in claim 1. Although the Examiner relies on Arnon for this missing feature, Arnon only teaches a backup system in a mass storage system of a stand alone host computer to restore information lost from the master device. Arnon does not teach or suggest any of the above-discussed features of the claimed information packet receiver, i.e., "receiving from the memory associated with the NAS an information packet associated with an ongoing call placed to the NAS by the call-in user, the information packet containing call information of the ongoing call for maintaining connection of the ongoing call if the local server fails," as recited in claim 1.

Accordingly, Farber, whether considered alone or combined with or modified by Arnon, does not teach or suggest the claimed invention recited in claim 1. Claims 9, 13, 17, 20, 30, 63, 66, 68, 69, 71, 74, 76, 78, 81, and 83 also includes substantially the same distinctive feature as claim 1.

Accordingly, it is respectfully requested that the rejection of claims based on Farber and Arnon be withdrawn. In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Dependent Claims

Claims 2-4 depend from claim 1, claims 10-12 depend from claim 9, claims 14-16 depend from claim 13, claims 18-19 and 52 depend from claim 17, claims 21-24 and 26 depend from claim 20, claims 31-32 depend from claim 30, claims 64-65 depend from claim 63, claim 67 depends from claim 66, claim 70 depends from claim 69, claims 72-73 depend from claim 71, claim 75 depends from claim 74, claim 77 depends from claim 76, claims 79-80 depend from claim 78, claim 82 depends from claim 81, and claim 84 depends from claim 84, and thus include the limitations of respective independent claims. The argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable at least for the same reasons.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,
THELEN REID & PRIEST, LLP

Dated: January 6, 2004



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Limited Recognition under 37 CFR §10.9(b)

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